

ESTTA Tracking number: **ESTTA665416**

Filing date: **04/07/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92057394
Party	Plaintiff Noble House Home Furnishings, LLC
Correspondence Address	ANTHONY O CORMIER LAW OFFICE OF ANTHONY O CORMIER 5850 CANOGA AVENUEANOGA AVENUE, SUITE 400 WOODLAND HILLS, CA 91367 UNITED STATES aocormier@sbcglobal.net
Submission	Plaintiff's Notice of Reliance
Filer's Name	Anthony O. Cormier
Filer's e-mail	aocormier@sbcglobal.net, Bwalker@dalpat.com
Signature	/aoc/
Date	04/07/2015
Attachments	NOR Defendant's Responses to RFA#.pdf(1008860 bytes )

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4 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
5 **BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

6 In re: Registration No: 4,049,441  
7 Mark: NOBLE HOUSE  
8 Date of Registration: November 1, 2011  
9

10 \_\_\_\_\_ )  
11 NOBLE HOUSE HOME )  
12 FURNISHINGS, LLC )

Cancellation No. 92057394

13 Plaintiff,

14 vs.

15 \_\_\_\_\_ )  
16 FLOORCO ENTERPRISES, LLC )  
17

17 Defendant.  
18 \_\_\_\_\_ )

19  
20 **PLAINTIFF’S NOTICE OF RELIANCE**  
21 **PURSUANT TO RULE 2.120(j)(3)(i) ON DEFENDANT’S RESPONSES TO**  
22 **PLAINTIFF’S REQUESTS FOR ADMISSIONS TO DEFENDANT [FIRST SET]**  
23

24 The Plaintiff herein, NOBLE HOUSE HOME FURNISHINGS, LLC  
25 (“Petitioner”), submits this Notice of Reliance, pursuant to Rule 2.120(j)(3)(i) of the  
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1 Trademark Rules of Practice, on Defendant's Responses to Plaintiff's Request for  
2 Admissions to Defendant [First Set] attached as exhibits.<sup>1</sup>

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4 **EXHIBIT A.** Defendants Responses Plaintiff's Requests for Admissions to  
5 Defendant [First Set] are attached hereto as Exhibit A.

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9 Dated: April 7, 2015

LAW OFFICE OF ANTHONY O.  
CORMIER

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By:  
\_\_\_\_\_  
ANTHONY O. CORMIER,  
Attorney for Petitioner NOBLE HOUSE  
HOME FURNISHINGS, INC.

<sup>1</sup> Defendant's responses to Plaintiff's requests for admissions reproduce the text of each request in its entirety with each response. Hence, Plaintiff's original request document would be redundant and is not attached to this Notice of Reliance. The responses relied on are highlighted for the convenience of the board.

## EXHIBIT A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NOBLE HOUSE HOME FURNISHINGS, LLC	§	Cancellation no. 92057394
	§	
<i>Plaintiff,</i>	§	In the matter of:
	§	
v.	§	Registration no. 4,049,441
	§	Mark: NOBLE HOUSE
FLOORCO ENTERPRISES, LLC	§	
	§	
<i>Defendant</i>	§	Registration Date: November 1, 2011

**DEFENDANT'S RESPONSE TO REQUESTS FOR ADMISSIONS [FIRST SET]**

**GENERAL OBJECTIONS**

1. Defendant objects to Plaintiff's "Instructions" and "Definitions" to the extent they purport to impose discovery obligations that differ from or exceed the discovery obligations imposed by the Federal Rules of Civil Procedure.
2. Defendant objects to the Response to Admissions to the extent that they seek information protected by the attorney-client privilege, the work-product privilege, or any other privilege, protection, or immunity applicable under the governing law.
3. Defendant objects to the Response to Admissions to the extent that they are overly broad, unduly burdensome, oppressive, and/or seek information that is not relevant to the issues in this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.
4. These General Objections are made, to the extent applicable, in response to each of the Interrogatories, Response to Admissions and Requests for Production of Documents as if the objections were fully set forth therein.
5. Defendant respond to each of the Response to Admissions based upon information and documentation available as of the date hereof and reserve the right to supplement and amend their responses.

## **RESPONSE TO ADMISSIONS**

### **Response for Admission No. 1:**

The only furniture product Defendant ever caused to be labeled with the Subject Trademark was a 26 inch Bathroom Vanity, an image of which was used as the specimen to obtain the Subject Registration and which furniture product was identified on the shipping carton label in that image as Item/Article No. 547000. See the attached Exhibit A.

Response:

Denied

### **Request for Admission No. 2:**

The image of Itm./Art. 547000 that was attached to Defendant's Statement of Use to obtain the Subject Registration, Exhibit A hereto, does not depict bona fide use of the Subject Trademark in the ordinary course of trade. See the attached Exhibit A.

Response:

Denied

### **Request for Admission No. 3:**

The image of Itm./Art. 547000 that was attached to Defendant's Statement of Use to obtain the Subject Registration, Exhibit A hereto, shows a furniture product in a shipping carton that was created merely to reserve a right in the mark.

Response:

Denied

### **Request for Admission No. 4:**

Defendant's claim in the Statement of Use that was filed to obtain the Subject Registration, which states the mark NOBLE HOUSE was used: "on the packaging of and containers for the goods, in displays associated with the goods, on tags or labels affixed to the goods, and in other ways customary in the trade," was untrue as of the date of signing on August 16, 2011. See the attached Exhibit A.

Response:

Denied

**Request for Admission No. 5:**

Defendant has no commercial documentation showing that the bathroom vanity product shown in the specimen image used to obtain the Subject Registration, Exhibit A hereto, which bathroom vanity product is identified in the specimen image as Itm./Art. 547000, was actually distributed in a manner constituting bona fide use of the Subject Trademark in commerce.

Response:

Denied

**Request for Admission No. 6:**

Defendant has no documents which show that the goods identified in Invoice No. FC-08-10-118 dated November 3, 2008, Exhibit B hereto, were distributed in the United States bearing the Subject trademark.

Response:

Denied

**Request for Admission No. 7:**

Defendant has no documents that show that the goods identified in Invoice No. FC-09-07-053 dated July 14, 2009, Exhibit C hereto, were distributed in the United States bearing the Subject Trademark.

Response:

Denied

**Request for Admission No. 8:**

As of the date of the responses to these requests for admissions Defendant has no commercial invoices for sales of furniture goods bearing the Subject Trademark which are dated after July 14, 2009.

Response:

Admitted

**Request for Admission No. 9:**

Defendant has not caused to be shipped to the United States furniture goods bearing the Subject Trademark other than individual pieces not intended for resale which were labeled and digitally imaged in order to provide a specimen to the PTO for the Subject Registration.

Response:

Denied

**Request for Admission No. 10:**

Between July 14, 2009, and March 5, 2013, Defendant did not have any sales of furniture goods bearing the Subject Trademark in commerce.

Response:

Admitted

**Request for Admission No. 11:**

Richie Berry, who signed the USPTO application for the Subject Trademark, signed for a Certified Mail delivery of an envelope containing a service copy of a Petition for Cancellation concerning this Cancellation proceeding on or about June 24, 2013.

Response:

Defendant does not have sufficient information to either confirm or deny this request for admission and therefore denies this admission.

**Request for Admission No. 12:**

Between March 6, 2013 and June 14, 2013, Defendant did not engage in any sales activities regarding furniture goods bearing the Subject Trademark.

Response:

Admitted



**Request for Admission No. 13:**

Between March 6, 2013, and June 24, 2013, Defendant did not use the Subject Trademark in commerce.

Response:

Admitted

Dated this 21st day of January, 2014.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "B. D. Walker", is written over a horizontal line.

Brian D. Walker  
HOWISON & ARNOTT, L.L.P.  
P. O. Box 741715  
Dallas, Texas 75374-1715  
Tel.: (972) 479-0462  
Fax: (972) 479-0464

Attorney for Respondent,  
Floorco Enterprises, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to 37 C.F.R. §§ 2.111 and 2.119, a copy of the Defendant's Response To Admissions filed in the above-identified case on January 21, 2014, was submitted to counsel for Petitioner on January 21, 2014, via electronic mail.

A handwritten signature in black ink, appearing to read 'B. D. Walker', written over a horizontal line.

Brian D. Walker  
HOWISON & ARNOTT, L.L.P.  
P. O. Box 741715  
Dallas, Texas 75374-1715  
Tel.: (972) 479-0462  
Fax: (972) 479-0464

Attorney for Respondent,  
Floorco Enterprises, LLC

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2 **CERTIFICATE OF SERVICE**

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4 I hereby certify that on April 7, 2015, pursuant to agreement between the parties,  
5 a copy of the foregoing PLAINTIFF'S NOTICE OF RELIANCE PURSUANT TO  
6 RULE 2.120(j)(3)(i) ON DEFENDANT'S RESPONSES TO PLAINTIFF'S  
7 REQUESTS FOR ADMISSIONS TO DEFENDANT [FIRST SET] was served on  
8 counsel for the Defendant via electronic transmission using email with a link to the file  
9 on Dropbox file hosting in accordance with the stipulation between the parties.

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11 LAW OFFICE OF ANTHONY O.  
12 CORMIER

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16 By: \_\_\_\_\_

17 ANTHONY O. CORMIER,  
18 Attorney for Petitioner NOBLE HOUSE  
19 HOME FURNISHINGS, INC.

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